

Sills Cummis & Gross
A Professional Corporation

The Legal Center
One Riverfront Plaza
Newark, New Jersey 07102
Tel: (973) 643-7000
Fax (973) 643-6500

101 Park Avenue
28th Floor
New York, NY 10178
Tel: (212) 643-7000
Fax: (212) 643-6500

Galit Kierkut
Member
Direct Dial: 973-643-5896
Email: gkierkut@sillscummis.com

600 College Road East
Princeton, NJ 08540
Tel: (609) 227-4600
Fax: (609) 227-4646

May 28, 2019

VIA ECF

Hon. Katharine H. Parker, U.S.M.J.
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 1950
New York, New York 10007

Re: *Veerappan Subramanian v. Lupin, Inc.*, Civ. Action No. 17-5040 (RA)(KHP)

Dear Judge Parker:

On behalf of Plaintiff and Counterclaim Defendants (collectively, “Sellers”), we write to object to Defendant Lupin Inc.’s untimely and unauthorized motion to compel, which was filed late Friday afternoon – two days after the Court-ordered deadline of May 22, 2019, and without leave of Court. We understood the Court’s Order of May 23, 2019, which denied Lupin’s motion to extend its time to renew its motion to compel, as barring Lupin from renewing its motion, as it had not been filed by the Court-ordered deadline.

Lupin’s claim that it was waiting for a response from Sellers to its proposal is no excuse for its last-minute motion to extend. As explained in our opposition to that motion, Lupin knew almost immediately after the May 8th telephonic conference that it would not be able to complete the depositions of Ms. Wilczek and Ms. Victoriano before its opening brief was due, but chose to delay raising the issue with Sellers. Had Lupin acted diligently, it could have filed its motion sufficiently in advance of the May 22nd deadline to obtain the Court’s Order and be guided by it.

Lupin chose not to comply with the Court-ordered briefing schedule and to gamble that the Court would grant its motion to extend. It should not be allowed to bootstrap its own dilatory conduct as a means of avoiding a clear Court-imposed deadline. Sellers therefore ask that the Court strike Lupin’s untimely and unauthorized motion from the docket.

Thank you for your consideration of this matter.

Respectfully,

s/ Galit Kierkut

Galit Kierkut

cc: All Counsel of Record (via ECF and email)

Hon. Katharine H. Parker, U.S.M.J.
May 28, 2019

Page 2